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PATENT
1199-1-001 CIP

AF/1645
#

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Moses Rodriguez et al.

SERIAL NO.: 08/692,084

GROUP ART UNIT: Duffy, P.

FILED: August 8, 1996

EXAMINER: 1645

FOR: PROMOTION OF CENTRAL NERVOUS SYSTEM
REMYELINATION USING MONOCLONAL AUTOANTIBODIES

#29 8/30/00
T. Gray

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231 on August 1, 2000.

Christine E. Dietzel Reg. No. 37,309
(Name of Registered Representative)

Joanne Santucci 8/1/00
(Signature and Date)

PETITION UNDER 37 C.F.R. 1.181 TO
RETAIN PROPER PENDENCY IN AN APPLICATION

ASSISTANT COMMISSIONER FOR PATENTS
BOX AF
WASHINGTON, D.C. 20231

Dear Sir:

It is respectfully requested that the pendency of this Application be retained.

In Paper No. 28, mailed May 30, 2000 with reference to the Instant Application, the Examiner has dismissed the appeal under 37 C.F.R. 1.191 and asserts that the application is ABANDONED.

On September 16, 1999 Applicants mailed a Notice of Appeal, which was stamped received by the U.S. PTO on September 21, 1999. A copy of the stamped postcard, noting September 21, 1999 as the U.S. PTO receipt date is attached hereto. In accordance with

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§ 1.192, Applicants must, within two months of the notice of appeal under § 1.191, file a brief or other appropriate response or action, with extensions of time available pursuant to § 1.136. In as much as the "Office Date" stamp establishes the "filing date", pursuant to PTO rules and policy, Applicants set the period due for response from September 21, 1999 and, on April 20, 2000, submitted a request for a 5 month extension of time and Continuing Prosecution Application.

Applicants assert that the proper due date for response with a 5 month extension was April 21, 2000, the time period set from the September 21, 1999 office receipt date, and that the request for 5 month extension of time and Continuing Prosecution Application, filed April 20, 2000, were timely filed.

In Paper No. 28 (copy attached hereto) the Examiner incorrectly and inadvertently sets and asserts the due date from the date of mailing, pursuant to a certificate of mailing of Applicants on September 16, 1999, and thereby incorrectly asserts abandonment of the Instant Application.

In a telephone conversation with Supervisory Examiner Lynette Smith on August 1, 2000, Examiner Smith confirmed the inadvertent and incorrect abandonment when presented with the dates and facts noted above.

Applicants respectfully petition that the Extension of Time and request for a Continued Prosecution Application be accepted as timely filed and that the pendency of the Instant Application, as a Continued Prosecution Application, be retained.

The present Petition is accompanied by a check in the amount of \$130.00 to cover the Petition Fee pursuant to § 1.17(i). The Commissioner is further authorized to charge any deficiencies associated with this Petition or credit any overpayment to Deposit Account No. 11-1153. A duplicate copy of this Petition is enclosed for such purpose.

Applicants respectfully request that the petition be granted and that the improper abandonment be withdrawn, in order that proper pendency of the Instant Application can be retained.

Respectfully submitted,

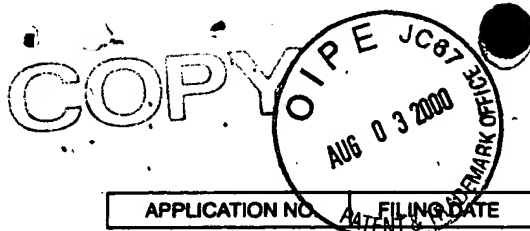


CHRISTINE E. DIETZEL

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**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY	DOCKET NO.
08/692,084	08/08/96	RODRIGUEZ	M	1199-1-001-C/P

DAVID A JACKSON
KLAUBER AND JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

HM12/0530

EXAMINER	
DUFFY, P	
ART UNIT	PAPER NUMBER
1645	28
DATE MAILED: 05/20/00	

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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JUN 01 2000

KLAUBER & JACKSON



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

CS/692,084

DEA/FCE-1994

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	28

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application

Commissioner of Patents

1. The appeal under 37 CFR 1.191 is dismissed because the fee for filing the brief, as required under 37 CFR 1.17(c) was not submitted or timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.

As a result of this dismissal, the application is ABANDONED since there are no allowed claims.

2. It is noted that the Notice of Appeal was filed pursuant to certificate of mailing on September 16, 1999, correctly sets the date of filing the Notice of Appeal, from the date of the final rejection of March 16, 1999 (Paper No. 22) as was the date of the final rejection set in the Advisory action mailed 10-20-99. Applicant's response was due 7 months from filing the Notice of Appeal, which was April 16, 2000. April 16, 2000 was a Sunday. Accordingly, applicants extension of time and response (request for continuing prosecution application) was due April 17, 2000. The request for a 5 month extension of time and continuing prosecution application were submitted with a certificate of mailing on April 20, 2000 and thus were not timely filed.

3. Applicant's request for five-month extension of time, incorrectly sets the date for the notice of appeal to expire on November 21, 1999. The notice of appeal expired on November 16, 1999.

4. Any inquiry of a general nature or relating to the status of this general application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers relating to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, the current FAX number for Group 1600 is (703) 308-4242.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia A. Duffy, Ph.D. whose telephone number is (703) 305-7555. The examiner can normally be reached on Monday-Friday from 6:30 AM to 3:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached at (703) 308-3995.

Patricia A. Duffy, Ph.D.
May 16, 2000

Patricia A. Duffy
Patricia A. Duffy, Ph.D.
Primary Examiner
Group 1600



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JACKSON

08/692,084 1199-1-001CIP CED/JS
Serial No. File No. By
Title PROMOTION OF CENTRAL NERVOUS SYSTEM ETC.
In the Matter of the Application of Moses Rodriguez et al.
The following was received in the U.S. Patent & Trademark Office on the date
stamped hereon: VIA FIRST CLASS MAIL

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| <input type="checkbox"/> Transmittal Sheet/Cover Ltr. | <input type="checkbox"/> Extension of Time |
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| <input type="checkbox"/> Declaration <input type="checkbox"/> Affidavit | <input checked="" type="checkbox"/> Maintenance Fee |
| <input type="checkbox"/> Drawings <input type="checkbox"/> Sheet(s) SEP 21 1999 | <input checked="" type="checkbox"/> Appln. TM Registration |
| <input type="checkbox"/> S.E. Verified Statements | <input type="checkbox"/> 8 & 15 Declaration |
| <input type="checkbox"/> Assignment | <input type="checkbox"/> Renewal Application |
| <input checked="" type="checkbox"/> Check for \$ <u>150.00</u> | <input checked="" type="checkbox"/> Notice of Appeal |
| <input type="checkbox"/> Letter <input type="checkbox"/> Missing Parts | <input type="checkbox"/> Brief <input type="checkbox"/> Petition |
| <input type="checkbox"/> Priority Document | <input type="checkbox"/> Power of Attorney |
| <input type="checkbox"/> Amendment <input type="checkbox"/> Response | <input type="checkbox"/> |